IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

FRIDAY, THE 7TH DECEMBER 2007 / 16TH AGRAHAYANA 1929

WP(C).No. 34953 of 2007(J)

PETITIONERS:
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1. C.M.ABRAHAM, AGED 58 YEARS,
CHETTIPARAMBIL HOUSE, ERAVIPEROOR, THIRUVALLA,
PATHANAMTHITTA.

2. MATHEW K.JACOB, S/O. JACOB,
KATTUVIRUTHIL, ANAPARAMBAL NORTH, THALAVADY,
ALAPPUZHA.

BY ADV. SRI.P.HARIDAS

RESPONDENTS:
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1. DISTRICT COLLECTOR,
PATHANAMTHITTA.

2. TAHSILDAR,
THIRUVALLA.

3. SUB INSPECTOR OF POLICE,
THIRUVALLA.

4. THE GEOLOGIST,
DEPARTMENT OF MINING AND GEOLOGY,
PATHANAMTHITTA.

BY GOVERNMENT PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 07/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 34953 OF 2007 J
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Dated this the 7th day of December, 2007

J U D G M E N T

Petitioner submits that he is a brick manufacturer, licence of which is Ext.P1. He has participated in an auction conducted by the Eraviperoor Grama Panchayat and purchased 8600 cu.metres of clay. He had also obtained orders of police protection of this court for removal and transportation of the clay. While so, it is stated that one truck was seized by the police on 17/11/2007 and Ext.P4 is the mahazar. Ext.P4 says that for transportation of the clay, which the petitioner was extracting on the strength of Ext.P7, he did not have any pass or any other document.

2. Ext.P5 also shows that on detention of the vehicle as stated above, matter has been forwarded to the 1st respondent for adjudication. Though the petitioner sought for release of the vehicle, that was not allowed and hence this writ petition has been filed.

3. From the records that are available herein and the instructions that are made available by the learned Government

Pleader, this does not appear to be a case where the truck in question was involved in any unauthorised transportation of river sand. Even going by the mahazar, it was only clay and petitioner refers to Ext.P2 to contend that he was legitimately entitled to transport the same for his business purposes. Now that the matter has been forwarded to the 1st respondent for adjudication, I do not wish to enter into the merits of the claim. But in the meanwhile, I do not think it necessary to keep the vehicle in detention.

4. Therefore, I direct that pending further adjudication by the 1st respondent, the truck be released to the petitioner on executing a bond with sureties for the value thereof and with an undertaking that the same will be produced as and when he is called upon to do so.

Writ petition is disposed of as above.

ANTONY DOMINIC, JUDGE.

Rp